IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8038 OF 2005
WITH
WRIT PETITION NO.8249 OF 2005

Mrs.Sanghmitra N.Gaikwad .. Petitioner

Vs.

Dr.Ninad S.Gaikwad ..Respondent

Mr.D.B.Savant for the petitioner

Mr.V.H.Kantharia with Mr.S.D.Bhosle for the respondent

CORAM : S.U.KAMDAR, J
DATED : 9TH DECEMBER, 2005

P.C.:

1. The present petition is filed challenging the order dt.24.8.05. By the said impugned order the application being Ex. 94 of 2004 preferred by respondent was allowed. By an earlier order passed on 9.6.03, the family court has fixed interim maintenance of Rs.2000 per month towards the maintenance of the wife. However, application was made by the husband for revocation of that order on the ground that the petitioner has made false statement that she was unemployed at that time and in fact she was working in her maiden name as a

Officer with Nasik Merchant Co-operative Bank having its branch office in Nasik. Though the learned Judge in the impugned order has come to the conclusion that there is no substance in the aforesaid contention because till 9.6.03 she was not in employment and gained employment only on 9.10.03 still the court has revoked the order off interim maintenance of Rs.2000/- per month on the ground that now the petitioner has sufficient income from the salary which has been paid as consolidated salary of Rs.5000/- per month. In my opinion, the aforesaid view of the Trial Court is erroneous and ex-facie perverse.

2. Having determined the interim maintenance for Rs.2000 per month, the court should not have revoked the same. In my opinion, even if the sum of Rs.5000 per month is taken into consideration still the amount of monthly maintenance of Rs.2000 cannot be termed as such an amount that the petitioner is getting much more then what is required to maintain a person. Respondent is a Doctor and carrying on the medical profession. Petitioner had also filed earlier writ petition for

enhancement of Rs.2000 per month maintenance which has been dismissed by order passed by this court on 27.4.05 in Writ petition No.6728 of 2003. Even in that order this court has taken note of the fact that the pettioner is now having an employment and thus it was held that Rs.2000 is sufficient amount. Inspite of the said fact trial court has proceeded and revoked the said order, the order of the Trial court dt.19.04.04 requires to be interfered with. Impugned order is accordingly quashed and set aside. Interim application no. 94 of 2004 is dismissed. Interim maintenance fixed by the trial court of Rs.2000 per month by order dt.9.6.03 is confirmed. Petition is made absolute accordingly. No order as to costs.

3. The learned counsel for the petitioner does not press the writ petition no.8249 of 2005 in view of the statement made by the learned counsel for the respondent that arrears if any will be deposited @ Rs.2000 within 4 weeks from today. Both the petitions are disposed of accordingly. No order as to costs.